

TOWN OF ABINGDON, VIRGINIA  
REGULAR COUNCIL MEETING  
MONDAY, DECEMBER 5, 2005  
7:30 P.M. – MUNICIPAL BUILDING

The regular meeting of the Abingdon Town Council was held on Monday, December 5, 2005 at 7:30 P.M. in the Council Chambers of the Municipal Building.

A. ROLL CALL

Members of Council present: Mayor Lois H. Humphreys  
Dr. French H. Moore, Jr., Vice Mayor  
Mr. Robert M. Howard  
Mr. Thomas C. Phillips, Jr.  
Mr. Edward B. Morgan

Comprising a quorum of the Council

Administrative Staff: G. M. Newman, Town Manager  
Greg Kelly, Town Attorney  
Mark Godbey, Finance Director  
C. M. Vernon, Jr., Public Works Director  
Garrett Jackson, Planning Director  
Jim Smith, Town Engineer  
Chris Johnson, Parks & Recreation Director  
Tony Sullivan, Police Chief  
Regena Burden, Tourism Department  
Linda F. Wilson, Town Clerk

Visitors: George Rubesha, Trey Smith, Betsy White, Greg Tucker,  
Steve Weston, Frank Blair, Joyce Ferrett, and others

B. Approval of Minutes – November 7, 2005 Regular Meeting &  
November 22, 2005 Work Session

Mr. Morgan made the motion to approve the minutes of the November 7, 2005 regular meeting as submitted. Mr. Howard seconded the motion.

Mr. Phillips made the motion to amend the minutes, noting page 2005-78, E-1, he had made the motion, which was seconded and approved, that a presentation of the redrafted ordinance also be referred to the Board of Architectural Review. Mr. Morgan seconded the amendment.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye  
Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

Dr. Moore made the motion to approve the minutes of the November 22, 2005 work session as submitted. Mr. Morgan seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye  
Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

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C. PETITIONS AND PUBLIC HEARINGS

1. **PUBLIC HEARING – PROPOSED REZONING** – George Rubesha, 849 Panacella Drive, Abingdon, Virginia and others: application to rezone both sides of Panacella Drive and known as ALL OF THE CAMPBELL SUBDIVISION DEVELOPMENT, from R-3 Residential District, to R-1 Residential District.

Garrett Jackson, Planning Director, explained that Panacella Drive residents had signed a petition requesting that rezoning be changed from R-3 Residential, to R-1 Residential. George Rubesha, a resident of 843 Panacella Drive, added that it is the desire of the residents to protect the character of the street. To do so, rezoning was required.

Mr. Howard made the motion that based on the recommendation of the Planning Commission, to approve on first reading, the request of George Rubesha and others to amend the Zoning Ordinance to rezone both sides of Panacella Drive, known as all of the Campbell Subdivision Development, from R-3 Residential District, to R-1 Residential District. Dr. Moore seconded the motion.

The roll call vote was:      Mr. Morgan – Aye              Mr. Phillips – Aye              Mr. Howard – Aye  
                                         Dr. Moore – Aye              Mayor Humphreys – Aye

The motion carried.

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2. **PUBLIC HEARING -**  
1. **PROPOSED AMENDMENTS** – Amend and reenact the Town of Abingdon Zoning ordinance.

**Amend Article 8-2-1 through 8-2-12 Old and Historic District**  
**Amend Article 26 Definitions**

2. **PROPOSED AMENDMENTS** – Enact Section 8-2A of the Town of Abingdon Zoning Ordinance.

Mayor Humphreys announced the public hearing.

Mr. Morgan advised that members of the Historic District Study Committee had made every effort to address issues that had been raised by property owners in the Old and Historic District.

Mr. Morgan added that an area of concern was in regard to permitted uses. He explained that the only thing that would change a permitted use would be if it was not used for that purpose for 2 years. Dr. Moore read paragraph 8-2A. He was concerned that should a property transfer ownership, someone else might not be able to use it.

Greg Kelly, Town Attorney, noted that Article 16 of the Zoning Ordinance allows for non-conforming uses to continue, provided they are not inactive for a two year period, whether or not there is a transfer in ownership.

Dr. Moore noted that Section 8-2-1 does not include spas or educational as permitted uses. His concern was that the Martha Washington Inn plans to open a spa, and have had some discussions regarding a culinary school.

Dr. Moore made the motion to amend and reenact Article 8-2-1 through 8-2-12 Old and Historic District and Article 26 Definitions, noting the addition of spa and educational to 8-2-1; and to enact Section 8-2A of the Town of Abingdon Zoning Ordinance. Mr. Morgan seconded the motion.

The roll call vote was:      Mr. Morgan – Aye              Mr. Phillips- Aye              Mr. Howard – Aye

Dr. Moore – Aye                      Mayor Humphreys – Aye

The motion carried.

Mr. Morgan made the motion to dispense of the second reading of the ordinance. Dr. Moore seconded the motion.

The roll call vote was:      Mr. Morgan – Aye                      Mr. Phillips – Aye                      Mr. Howard – Aye  
                                         Dr. Moore – Aye                      Mayor Humphreys – Aye

The motion carried.

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3. **PUBLIC HEARING**

**PROPOSED AMENDMENTS** – Amend and reenact the Town of Abingdon Subdivision Ordinance.

Mr. Kelly advised that he and other Town staff members had worked on the comprehensive revision of the Subdivision Ordinance for several months to ensure compliance with Section 15.2-2241 of the Code of Virginia. Section 15.2-2242 was also reviewed to allow for any discretionary subsections that might be included. He requested that Council adopt the ordinance.

Dr. Moore made the motion to amend and reenact the Town of Abingdon Subdivision Ordinance. Mr. Morgan seconded the motion. (amended copy attached to and made a part of these minutes)

The roll call vote was:      Mr. Morgan – Aye                      Mr. Phillips – Aye                      Mr. Howard – Aye  
                                         Dr. Moore – Aye                      Mayor Humphreys – Aye

The motion carried.

Mr. Morgan made the motion to dispense of the second reading to amend and reenact the Town of Abingdon Subdivision Ordinance. Mr. Phillips seconded the motion.

The roll call vote was:      Mr. Morgan – Aye                      Mr. Phillips – Aye                      Mr. Howard – Aye  
                                         Dr. Moore – Aye                      Mayor Humphreys – Aye

The motion carried.

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4. **PUBLIC HEARING – APPEAL FROM BOARD OF ARCHITECTURAL REVIEW** –

Pursuant to Section 8-12-1 of the Zoning Ordinance of the Abingdon Town Code, William E. Cline and Betty L. Cline, 16048 Briarwood Drive Abingdon, Virginia 24210; have noted an appeal to the decision of the Abingdon Board of Architectural Review on November 2, 2005, denying their application for a Certificate of Appropriateness, to place synthetic siding on their rental house located at 108 East Valley Street (**Tax Map No. 12 (1) 49**) in the Old and Historic District of the Town of Abingdon.

Garrett Jackson, Planning Director, advised that Dr. and Mrs. Cline were notified in July that the work being performed on their house located at 108 East Valley Street had not been approved by the Board of Architectural Review (BAR), and that the use of synthetic siding was discouraged.

Mr. Jackson explained that some properties located near the Cline's house do contain vinyl siding. However, the siding existed on those properties at the time they were incorporated into the Historic District. It was recommended to the Clines that the siding be removed, and that they submit an amended application to the BAR.

Attorney Trey Smith represented Dr. and Mrs. Cline. Mr. Smith advised that the Clines were unaware of the 2005 revised guidelines when they requested the work to be done on their house. Approximately 15 properties adjacent to the Cline's house do contain vinyl siding.

Following completion of the work, the Clines became aware that a Certificate of Appropriateness was required; therefore, they immediately applied for one. However, it was denied by the BAR. They made an appeal of that request and it was denied by the BAR as well.

The Clines are committed not only to the value of their property, but also its appearance and place in the Historic District. The work looks great and the architecture was not changed. Mr. Smith has been working with Mr. Kelly and Mr. Jackson in an effort to resolve the issue. He expressed appreciation to Council for the consideration of the Cline's request that the decision of the BAR be overturned.

Mr. Phillips asked Mr. Smith what compromise he would suggest in an effort to resolve the issue.

Mr. Smith suggested that the siding be taken down on the front of the house, and that the original wood be replaced. However, much more work would be required to restore the wood at the back of the house. He added that the house could not be seen as well from Plumb Alley as from Valley Street because of a large pine tree and a privacy hedge at the back of the house.

Mr. Phillips asked Mr. Smith, if Council affirms the decision of the BAR, would the Clines file an amended request to the BAR setting forth their suggestions for a compromise. Mr. Smith replied yes sir.

Discussion included various methods that might be utilized in the future to ensure that residents of the Historic District are aware of the guidelines.

Mr. Morgan made the motion to affirm the decision of the Board of Architectural Review regarding the appeal to the Board of Architectural Review by William E. Cline and Betty L. Cline denying their application for a Certificate of Appropriateness to place synthetic siding on their rental house located at 108 East Valley Street in the Old and Historic District. Mr. Phillips seconded the motion.

The roll call vote was:	Mr. Morgan – Aye	Mr. Phillips – Aye	Mr. Howard – Aye
	Dr. Moore – Aye	Mayor Humphreys – Aye	

The motion carried.

Mr. Morgan made the motion that in compliance with the letter submitted to the Clines on November 14, 2005 by the Board of Architectural Review outlining procedure for appealing this matter, to request that the Clines submit an amended request for a Certificate of Appropriateness to the Board of Architectural Review and that this Council strongly urges the Board of Architectural Review to give the proposed compromised solution very serious consideration. Dr. Moore seconded the motion.

The roll call vote was:	Mr. Morgan – Aye	Mr. Phillips – Aye	Mr. Howard – Aye
	Dr. Moore – Aye	Mayor Humphreys – Aye	

The motion carried.

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E. REPORTS FROM THE TOWN MANAGER

1. Emergency Fuel Needs of Town Residents.

(Doug Meade, Director – Washington County Social Services)

Mr. Meade was not present.

The Town Manager advised that Tommy Casteel of Washington County Social Services had recommended that if Council appropriates money to assist in the emergency fuel needs of Town residents, that it be administered by Faith in Action, and further that the application guidelines be the same as those set forth by the Washington County Department of Social Services.

Discussion included the number of applications submitted by Town residents and the average amounts awarded.

Dr. Moore made the motion to appropriate from unappropriated surplus, \$10,000 to the Ecumenical Faith in Action to supplement State and Federal funds to assist Town residents who have a financial problem with emergency fuel needs. Mr. Morgan seconded the motion. He also requested that Mr. Meade be invited to the January meeting to discuss the matter further.

The roll call vote was:      Mr. Morgan – Aye              Mr. Phillips – Aye              Mr. Howard – Aye  
                                         Dr. Moore – Aye              Mayor Humphreys – Aye

The motion carried.

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2. Request for \$5,000 – The Crooked Road Heritage Music Trail project.  
(Keith L. Holland Rocky Mount Town Manager – Local Government Representative to Executive Committee)

Dr. Moore noted that Abingdon is a part of the trail, and the project has hired an Executive Director whose office is located in the Incubator.

Mr. Morgan made the motion to renew the \$5,000 contribution to the Crooked Road Heritage Music Trail project. Mr. Howard seconded the motion.

The roll call vote was:      Mr. Morgan – Aye              Mr. Phillips – Aye              Mr. Howard – Aye  
                                         Dr. Moore – Aye              Mayor Humphreys – Aye

The motion carried.

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3. Audit Report – FY 2004-2005. (Greg Tucker of Bostic, Tucker, and Company, P.C.)

Greg Tucker of Bostic, Tucker, and Company, P.C. reported on the audit for FY 2004-2005. Mr. Tucker advised that the audit went well, and the Town's records are in good shape. The year ended with a break even situation. Mr. Tucker reiterated that the Town is in good financial condition.

Mr. Phillips made the motion that the comprehensive annual financial report for the fiscal year ending June 30, 2005 prepared by Bostic, Tucker, and Company, P.C. be accepted by the Town of Abingdon. Mr. Morgan seconded the motion.

The roll call vote was:      Mr. Morgan – Aye              Mr. Phillips – Aye              Mr. Howard – Aye  
                                         Dr. Moore – Aye              Mayor Humphreys – Aye

The motion carried.

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4. Request for Approval, Prosecution of Town Ordinance Misdemeanor Cases.  
(Greg Kelly, Town Attorney)

Mr. Kelly advised that under Section 15.2-1542D, of the Code of Virginia, the Town Attorney can be authorized by Council to prosecute Town ordinance misdemeanor cases, provided the Commonwealth Attorney consents to the same. Mr. Dennis Godfrey, Washington County Commonwealth Attorney had agreed to allow Mr. Kelly to do so. Therefore, he asked for authorization to prosecute misdemeanor offenses in violation of the Town ordinance.

Mr. Phillips made the motion that Council authorizes the Town Attorney, Gregory W. Kelly, with the authority set forth in Virginia Code Section 15.2-1542D to prosecute misdemeanor offenses that are in violation of the Code of the Town of Abingdon. Dr. Moore seconded the motion.

The roll call vote was:     Mr. Morgan - Aye             Mr. Phillips - Aye             Mr. Howard - Aye  
                                         Dr. Moore - Aye             Mayor Humphreys - Aye

The motion carried.

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#### G. FIRST READING OF ORDINANCES

1. Consideration – AN ORDINANCE TO REPEAL, AMEND AND REENACT SECTION 8-1, SECTION 8-2 AND SUBSECTIONS OF SECTION 8-2(8-2 THROUGH 8-2-12); TO REPEAL AND REENACT ARTICLE 26 (AND ALL SUBSECTIONS OF ARTICLE 26); AND TO ENACT SECTION 8-2A OF THE ZONING ORDINANCE OF THE TOWN OF ABINGDON. (*Ordinance No. 3-2005*)

Ordinance No. 3-2005 was acted on in C-2, Public Hearings.

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#### H. SECOND READING OF ORDINANCES

1. **SECOND READING** – Request for Certificate of Public Convenience & Necessity to Operate 2 Taxicabs in 2006. (Jack Kiser, Abingdon Taxi Service)

Mr. Morgan made the motion to approve, on second reading, the request of Jack Kiser of Abingdon Taxi Service for a Certificate of Public Convenience & Necessity to operate 2 taxicabs in 2006. Mr. Howard seconded the motion.

The roll call vote was:     Mr. Morgan - Aye             Mr. Phillips - Aye             Mr. Howard - Aye  
                                         Dr. Moore - Aye             Mayor Humphreys - Aye

The motion carried.

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2. **SECOND READING** – Proposal to repeal and reenact: Abingdon Town Code – Chapter 62, Article III. Division 2. *Sec. 62-76. New Construction- Residential, town contracted.*

Mr. Morgan made the motion to approve, on second reading, the proposal to repeal and reenact Abingdon Town Code – Chapter 62, Article III. Division 2. *Sec. 62-76. New Construction – Residential, town contracted.* Dr. Moore seconded the motion.  
(copy attached to and made a part of these minutes)

The roll call vote was:     Mr. Morgan - Aye             Mr. Phillips - Aye             Mr. Howard - Aye  
                                         Dr. Moore - Aye             Mayor Humphreys - Aye

The motion carried.

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3. **SECOND READING** – AN ORDINANCE TO PROVIDE FOR THE IMPLEMENTATION OF THE 2004-2005 CHANGES TO THE PERSONAL PROPERTY TAX RELIEF ACT OF 1998 SPECIFIC RELIEF. (*Ordinance No. 2-2005*)

Mr. Phillips made the motion that Ordinance No. 2-2005 be approved on second reading. Mr. Howard seconded the motion. (copy attached to and made a part of these minutes)

The roll call vote was:      Mr. Morgan – Aye              Mr. Phillips – Aye              Mr. Howard – Aye  
                                         Dr. Moore – Aye              Mayor Humphreys – Aye

The motion carried.

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I. MISCELLANEOUS BUSINESS AND COMMUNICATIONS

1. American Dream Town, #1 people's Choice Award. (Steve Weston)

Steve Weston announced that the Town of Abingdon was recently elected as the American Dream Town 2006 in a national election. Abingdon was nominated by a National Geographic travel writer who had traveled through Town and was inspired to nominate it for the competition.

As a result of winning, Abingdon will be showcased on a television show that will air on July 4, 2006 and an interview by Good News Broadcasting Incorporation. The competition was sponsored by Seven Stars and Stripes. Mr. Weston read the announcement that is posted on their website which declares Abingdon the winner.

Mr. Weston suggested that, as a result of the competition, the Town might consider updating its website to make it more visually appealing.

Mr. Morgan expressed appreciation to Mr. Weston for his efforts to encourage the citizens of Abingdon who had voted in the competition. Mayor Humphreys advised that the website would be looked into.

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2. Set date for January meeting. (1<sup>st</sup> Monday is New Year's Day)

Mr. Morgan made the motion to schedule a work session for Monday, January 3, 2006 at 9:00 A.M., and further to schedule the regular meeting for Monday, January 3, 2006 at 7:30 P.M. Dr. Moore seconded the motion.

The roll call vote was:      Mr. Morgan – Aye              Mr. Phillips – Aye              Mr. Howard – Aye  
                                         Dr. Moore – Aye              Mayor Humphreys – Aye

The motion carried.

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3. Appointments – Virginia Highlands Small Business Incubator.

Mr. Howard made the motion to appoint Michael Spiegler to the Virginia Highlands Small Business Incubator Board to fill the vacancy of Mayor Humphreys, who recently resigned. Mr. Phillips seconded the motion.

The roll call vote was:      Mr. Morgan – Aye              Mr. Phillips – Aye              Mr. Howard – Aye  
                                         Dr. Moore – Aye              Mayor Humphreys – Aye

The motion carried.

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J. MATTERS NOT UPON THE AGENDA

1. Frank Blair, a resident of 194 Morningside Drive, asked if \$100,000 that was approved by Council for work on the Barter Green were funds to match the government grant that has been rejected by Barter.

Mr. Phillips responded that he had recently researched the information regarding the \$100,000. After doing so, he understood that the government grant was from a different source, and not the Tobacco Commission funding.

Discussion included minutes regarding the \$100,000 appropriation.

Mr. Morgan requested that prior to the Public Hearing on December 7, that Town staff and the Town Attorney review the minutes of the meetings wherein the \$100,000 was appropriated, and if appropriate, to listen to the recordings that were taken of those meetings.

2. Mr. Phillips noted that there had been some discussion regarding the possibility of the development of a parking lot south of Barter Green, between Park Street and the railroad tracks. An abandoned church property is located there.

Mr. Phillips made the motion to request that the Town Attorney be authorized to investigate the possibility for condemnation of the Church property located between Park Street and the railroad tracks, and that he make a report at the next meeting. Mr. Morgan seconded the motion.

The roll call vote was:     Mr. Morgan – Aye             Mr. Phillips – Aye             Mr. Howard - Aye  
                                     Dr. Moore – Aye             Mayor Humphreys – Aye

The motion carried.

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3. Mr. Phillips noted that he has available information regarding the Artisan's Center. Council members and other interested persons had recently met with the officials at Tamarack.

4. The Town Manager advised that the Town had received authority to advertise for Requests for Proposals for the Depot Square project. Following approval by the Department of Transportation, it would be advertised, and hopefully work would begin on the project in late spring or early summer.

5. Mayor Humphreys advised that the Community Christmas Tree Lighting would be held at the Martha Washington Inn on the upcoming Thursday night at 6:30 P.M.

6. Bob Howard acknowledged the idea of Michael Wartella to order Town flags that were recently received.

With no further business the meeting was adjourned.

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Lois H. Humphreys, Mayor

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Linda F. Wilson, Clerk